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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
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UNITED STATES OF AMERICA,) File No. 17-cr-11
5 Plaintiff,) (SRN/KMM)
6 vs.)
7 TERRENCE CHRISTIAN GARMON,) Saint Paul, Minnesota
8 Defendant.) November 9, 2018
9) 9:43 a.m.

10 BEFORE THE HONORABLE SUSAN RICHARD NELSON
11 UNITED STATES DISTRICT COURT JUDGE
(SENTENCING HEARING)

12 APPEARANCES

13 For the Plaintiff: UNITED STATES ATTORNEY
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15 For the Defendant: SIEBEN & COTTER
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23 Proceedings recorded by mechanical stenography;
24 transcript produced by computer.
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PROCEEDINGS

IN OPEN COURT

4 THE COURT: We are here this morning in the matter
5 of the United States of America versus Terrence Christian
6 Garmon. This is criminal file 17-11. I would invite
7 counsel and Mr. Garmon up to the lectern and I would ask
8 counsel to note your appearances, if you would.

9 MR. CALHOUN-LOPEZ: Good morning, Your Honor.
10 Thomas Calhoun-Lopez and Benjamin Bejar for the United
11 States.

12 MR. BEJAR: Good morning.

13 THE COURT: Good morning.

14 MR. COTTER: Good morning. Patrick Cotter on
15 behalf of Mr. Garmon who is personally present.

16 THE COURT: Good morning to you, Mr. Garmon.

17 THE DEFENDANT: Good morning, Your Honor.

18 THE COURT: Now, we are here today for your
19 sentencing, and I want you to know in preparation for your
20 sentencing I've gone back and reviewed your Presentence
21 Investigation Report. I've gone back and looked at the
22 guidelines. Each of the lawyers submitted position papers
23 and I've taken a look at those. I've consulted with
24 probation. I've gone back and looked at the Plea Agreement
25 and the Indictment, and I have read all the very supportive

1 letters that you have received from your aunts and your
2 cousins and your sister.

3 Mr. Calhoun-Lopez, has the Government received a
4 copy of the PSR and the addendum?

5 MR. CALHOUN-LOPEZ: Yes, Your Honor.

6 THE COURT: Mr. Cotter, have you as well?

7 MR. COTTER: Yes, Your Honor, I have provided one
8 to my client.

9 THE COURT: Have you had a fair opportunity to
10 review them with your client?

11 MR. COTTER: Yes.

12 THE COURT: Now, I know there were initially
13 objections posed to the PSR but, Mr. Cotter, my
14 understanding is that you have withdrawn those objections;
15 is that right?

16 MR. COTTER: That, and for the record, I would
17 note that we're withdrawing those objections at this time.

18 THE COURT: Okay. Very good. And so as I
19 understand it, there are no remaining objections to the PSR.
20 Is that correct?

21 MR. CALHOUN-LOPEZ: It is for the Government, Your
22 Honor.

23 MR. COTTER: Yes, Your Honor.

24 THE COURT: All right. The Court will grant a
25 2-level downward adjustment in the offense level. At this

1 time, Mr. Calhoun-Lopez, does the Government move for an
2 additional level?

3 MR. CALHOUN-LOPEZ: We do, Your Honor.

4 THE COURT: Very good. That motion is granted.

5 The Court determines that the guidelines apply as follows:

6 Total offense level of 22, criminal history
7 category II, an advisory imprisonment range of 46 to 57
8 months, a supervised release range of 1 to 3 years, a fine
9 range of \$15,000 to \$150,000; and in this case a special
10 assessment of \$300, which would be \$100 per count.

11 Does the Government have any corrections or
12 objections to that guideline range?

13 MR. CALHOUN-LOPEZ: No, Your Honor.

14 THE COURT: Does the defense?

15 MR. COTTER: No, Your Honor.

16 THE COURT: Very good.

17 I understand, Mr. Cotter, that you wish to make
18 motions both for downward departures and variances, and you
19 may be heard on anything else you would like to say on
20 behalf of Mr. Garmon at this time.

21 MR. COTTER: Thank you. Your Honor, again, I
22 would incorporate my previous arguments that I have written
23 by reference and I would just like to highlight some aspects
24 of those.

25 First, I briefly note that we did address the

1 criminal history score and the increase from what we
2 believed it would be at the time of the Plea Agreement,
3 which again doesn't impact whether or not we move forward
4 today -- my client's well aware of that -- but the basis for
5 those were two petty misdemeanor marijuana citations or
6 payable fines. Certainly they are countable, but when you
7 think of them in relation to a felony point from a previous
8 offense, we'd note that we believe, and that's what we
9 contemplated when we addressed the Plea Agreement, that
10 Criminal History Category I is more appropriate in the sense
11 of how it should be treated by the Court. I'll just leave
12 that as is.

13 Moving on to our motion for a downward variance, I
14 asked for a variance downward. My client has asked me to
15 ask for an even bigger variance based upon his conduct over
16 the last two and a half years since these offenses occurred.
17 He's asking the Court to continue him on a probationary
18 sentence with home confinement and all other terms that he's
19 been under. So that's the substantial variance that I'm
20 moving the Court for this morning on his behalf.

21 When looking at -- these are serious offenses and
22 the starting point, and I think one of the main aspects of
23 the guidelines, is addressing both punishment and deterrence
24 that gets taken into account for bank robbery type of
25 offenses, in addition to the importance to let others in the

1 community know that there will be a punishment if these
2 offenses occur.

3 Countervailing that is the -- I'm going to combine
4 what's stated in many sentences in the 3553(a) factors into
5 rehabilitation and the need for confinement to correct the
6 particular individual that's being sentenced.

7 And so you look at the nature and characteristics
8 of Mr. Garmon, you look at the need to protect the public
9 from future crimes by Mr. Garmon, you look at the need for
10 additional correctional, vocational training and all of
11 those types of things that often times people being
12 sentenced before Your Honor need in order to be successful
13 in the community, and they have not been able to accomplish
14 that without the need for confinement.

15 In this particular instance, I think the most
16 driving factor, whether that's due to how long it took or
17 not, when you look at the particular individual, these
18 offenses ended in April of 2016. They expand over a few
19 months, and it was at a time that Mr. Garmon -- and this
20 isn't uncommon -- was driven entirely by severe addiction.
21 Not just to marijuana, but when he got into the crack
22 cocaine, that is what led him to a very severe and quick
23 downward spiral.

24 However, in the two and a half years -- and here's
25 the thing that I think is different -- between April of 2016

1 and November of 2016 and then onward, he actually removed
2 himself before there was ever any criminal -- now there may
3 have been some investigations ongoing -- and not may have,
4 there were -- investigations ongoing and eventually they
5 were trying to find him after he was indicted nearly a year
6 later. But for purposes of what he was doing with his life
7 and what he knew, he removed himself from that scenario
8 before the system, before law enforcement, before probation,
9 before a court needed to do that.

10 And what does that mean? That means that he was
11 not someone that was just doing it for the sole purpose of
12 trying to appease a court. He was doing it authentically
13 because he knew that he needed to go back to where his
14 support was, to get away from the negative influences and to
15 get his life back on track, and that happened in November of
16 2016.

17 He wasn't arrested on an Indictment, through no
18 fault of his own, until a year later. And actually it was I
19 believe October, and then by the time he was brought up here
20 to Minnesota it was almost exactly a year ago. November
21 15th of 2017 was his initial appearance.

22 During that time he had gotten himself a job,
23 removed himself from all type of criminal activity. He
24 hadn't completely cleaned up because he had a dirty UA for
25 marijuana when he was arrested, and he's had nothing since.

1 But he got himself away from the very hard street drugs that
2 led him to the offenses that he committed without any
3 intervention or without someone saying you need to do this
4 in order to not be in jail. This was something he did on
5 his own; and he got employed and all of those things.

6 So then over the course of the next year, they
7 took a big chance on him by releasing him, you know, across
8 the country to go back to North Carolina on pretrial
9 release, and he has met every parameter for treatment and
10 aftercare and being employed and maintaining contact and
11 having zero violations of any kind during that.

12 So now we're at two and a half years later with
13 someone who had removed themselves before the system was
14 involved. To me, and I hope to you, that shows when we're
15 looking at the need for rehabilitation, the need for
16 deterrence, the concern for potential recidivism by this
17 particular defendant, and the likelihood that he's going to
18 require significant training and correction during a prison
19 term, in fact he has shown this Court over two and a half
20 years that he is a productive, law abiding, sober, employed
21 member of the community, and a faith community with a family
22 that is surrounding him; and so now putting him in prison
23 really only sets him and all the people that he is a part
24 of, it sets them back, all so that we can punish. Weighing
25 that, all so that we can punish for the crime he committed.

1 And being on probation where you have such
2 strict -- you're not just free to just live your life.
3 There still is a punishment, a deterrence that has been
4 going on and that would continue to go on if the Court
5 adopted the sentence that's being requested.

6 So based on those mitigating factors that are
7 unique to this particular defendant and all of the factors,
8 ultimately punishment versus rehabilitation, I believe that
9 this request is supported by an overweighing of that
10 rehabilitation piece that's occurred versus the need to
11 punish with a substantial prison term.

12 So I'm asking the Court to adopt that with
13 specifics. If the Court were to impose a prison term, I'd
14 ask the Court to consider the following:

15 One, I'd ask the Court to consider a BOP
16 designation recommendation for North Carolina.

17 Two, I'd ask in the event that the term imposed
18 and all other requirements are met, that he be considered
19 for RDAP so that he can continue the sobriety that he's
20 already gained, and continue to learn even more skills to
21 maintain that.

22 I'd ask the Court to also, and we can address this
23 further after the Government speaks, consider a voluntary
24 surrender. The exceptional circumstances would be
25 essentially everything that I have just argued to the Court,

1 so I don't think I should restate it to you.

2 And last, but not least, there wasn't a motion
3 filed, but in speaking to my client's mother, Armagene Smith
4 yesterday, she asked if she could address the Court prior to
5 sentencing. So I didn't file a motion. I wasn't aware that
6 that would be a request. But if the Court would entertain
7 that, she's present and would like to be able to address the
8 Court at the appropriate time.

9 THE COURT: Thank you, Mr. Cotter.

10 Well, I think we'll hear from Mr. Garmon and then
11 we'll hear from his mother and then we'll hear from the
12 Government.

13 Mr. Garmon, this is your chance to speak to me on
14 your own behalf if you wish to do so.

15 THE DEFENDANT: Thank you, Your Honor. I would
16 just like to say that I know what I did was wrong and I
17 understand that I need to be held accountable for what I
18 did. What I would just like to say is that I feel like I
19 have shown, even as Mr. Cotter said, prior to being
20 essentially forced to get on the straight and narrow, I had
21 already made choices and decisions and I had already made
22 determinations in my mind to do so and I showed that in my
23 actions.

24 I do understand that we're not here about my
25 present but we're here about what I did in the past, so I

1 would just like to -- for you to keep in mind that, you
2 know, life, like everyone other's lives, is about full of
3 peaks and valleys; and when I was in a valley, I made the
4 wrong decisions and I understand that I need to be held
5 accountable for that, but I would just like you to keep in
6 mind what I have shown in its entirety essentially, Your
7 Honor.

8 And I thank the Court. I would just like to say
9 that my mother didn't raise me for the penitentiary so for
10 having to have her go through this is very trying. But,
11 again, I just want to be held accountable for what I have
12 done and I just want you to apply some grace wherever you
13 can based upon my actions. That's all.

14 THE COURT: Thank you, Mr. Garmon.

15 I will ask Ms. Garmon's mom to come up. Let's
16 give her some space. Good morning.

17 MS. ELLIS-SMITH: Good morning, Your Honor.

18 I want to start by thanking the Court for
19 everything that you have done thus far. I was here at the
20 change of plea hearing via phone and I heard Your Honor say
21 that she would have to find extraordinary circumstances in
22 order to send Terrence back to North Carolina subsequent to
23 his plea of guilty, so I thank the Court for that. I also
24 thank the prosecutor for not opposing that decision, and
25 agree with Mr. Cotter that that would be the right thing to

1 do at that time.

2 As my son stated, just -- I never knew I would be
3 in this position. No, I never raised him for the
4 penitentiary. I remember in middle school he was being
5 bullied by some boys and he said, Mom, they said that I'm
6 too soft. I'm not hard. I said, Well, you tell them that
7 your mother said that you don't have to be where you're
8 going. I'm raising you to go to university, not
9 penitentiary. I said, They will have to be where they are
10 going.

11 And so with regard to just looking at the
12 perspective of 2016, it was so poignant in my mind, I was at
13 a Goddaughter's law school graduation. I had travelled to
14 the State of Ohio to go to one of my Goddaughter's law
15 school graduations because I promised her, because at the
16 time Katie didn't know what she wanted to do with her life.

17 It's always been a desire of mine to go to law
18 school. I haven't achieved that goal yet, but it's still a
19 desire of mine; and I said, Katie, you don't know what you
20 want to do with your life, I said, so why don't you dedicate
21 your life to helping others. I said, Why don't you go to
22 law school. And she said, Auntie, I don't know about that.
23 I said, I know you don't so that's why I'm telling you. Go
24 to law school. And I said, I promise you if you go, I'll be
25 there when you come across that stage.

1 And she went to law school. She graduated. I was
2 there. She didn't even know I was coming. I said, I
3 remember the promise I made to you four years earlier, I
4 said, so I'm here.

5 And that day was so poignant not just because of
6 her graduation but because my son called me. It was May
7 2016. He called me on my way to her graduation dinner and he
8 said, Mom, I need some money. I'm hungry. I said, You are?
9 He said, Yes. I said, How much do you need? And he said,
10 Just enough for groceries for the week. I said, Okay. The
11 only cash I had available was the hundred dollars I was
12 putting in Katie's card, I said, but I'll send you \$50, I
13 said, and I'll explain it to her.

14 So I remember going to the dinner and I said,
15 Katie, I know law school graduation is a great big deal and
16 \$50 seems very small. I intended to put a hundred dollars
17 in here but your Godbrother -- we call him Christian -- I
18 nicknamed him "Buster" in my womb just because of his
19 interactions, he was always a very vibrant child -- I said,
20 Buster needed \$50 for groceries. And she said, Oh, Auntie,
21 I understand.

22 And it was subsequent to that time that I told
23 him, that was in May, I said, You're going to have to make
24 better decisions for your life. I said, You will soon be 25
25 years old and I know you don't like asking me for money, I

1 said, but you have to make decisions for your life that's
2 going to better your life because you shouldn't have to ask
3 me for anything. You should be fully prepared to meet the
4 world.

5 And what I told him was that in preparation for
6 preparing to be 25, that I was very proud of decisions that
7 he had made in his personal life in that he doesn't have any
8 children. He hasn't made any mistakes with regard to
9 getting involved as far as marrying the wrong person or
10 people. So I told him, I'm very proud. And that's
11 something we always talked about when he was younger, about
12 making those right decisions that can impact the rest of
13 your life or all of your life. He saw how my life went.
14 How I was impacted by divorces. How I was impacted by being
15 a single parent at times. So he was well versed with that
16 part of life and I think he embraced the knowing that he has
17 to make the right decisions for his life.

18 So that was in May. In June 2016, I had to take a
19 flight up to Chicago. My mother was diagnosed with
20 pancreatic cancer. And while that was a very tremendous
21 situation, since we are a family of faith, nearly three
22 years later she's still here with us. She has defied all
23 odds. She's defied all medical reports.

24 In June we got that diagnosis. Three weeks later
25 I received word that my nephew, who was like a son to me,

1 who at times had been raised in the same home as Christian,
2 was killed in a motorbike accident out of country. And the
3 thing that we said, because we were so upset because he was
4 so far away, because of everything that we had to go through
5 with the State Department, we couldn't bring his body home
6 so we had a memorial service on July 23rd, 2016.

7 Christian came down for the memorial service and I
8 talked to him that day. I said, You see, your cousin, who's
9 like a brother to you, was killed in Thailand. I said, We
10 can't bring his body home because it was so many
11 complications with doing that. I said, Now you have a
12 choice to make. You can continue to be away from the family
13 that loves and supports you or you can come home, humble
14 yourself, so that you can make better choices for your life.
15 I said, His choices have ended because his life is over.
16 He's gone now.

17 So during his 25th birthday, we normally celebrate
18 Thanksgiving in Indiana, he said, Mom, I'm coming to
19 Thanksgiving and I'm going to come home and I'm going to
20 make my life better. I'm going to do what you said. I
21 said, Well, I'm so happy for that.

22 He came to North Carolina, began to work. It was
23 not until I think March or April of 2017 we began to hear
24 some squirmishes [sic] about an outstanding warrant and that
25 there was an outstanding warrant for bank robbery. I never

1 discussed it with my son. I did call the person that
2 stopped by the house to make inquiries. I did also have an
3 attorney that I know who works in the federal system to look
4 for the warrant because I -- what I did tell him was about
5 there was a warrant for your arrest; you're going to have to
6 face it. You're going to have to present yourself to that
7 body. But every word that we got back was no, there was no
8 warrant; and then we found out later it was because it was
9 under sealed Indictment.

10 So he had already relocated to North Carolina in
11 2016. The Indictment came down in January 2017. We found
12 out about it after he was arrested on his job on October the
13 23rd, 2017.

14 While my son was in custody, and the only reason
15 we knew something was off, was because he didn't come home.
16 We were in contact with each other daily. And so my
17 daughter said, Mom, Buster didn't come home. And I said,
18 Let's call around. I called the federal courthouse there in
19 Raleigh and they said, Yes, he's been arrested. He's been
20 arraigned and he's going to be facing charges in Minnesota.
21 I said, Okay. Well, please stay in touch with us.

22 Three days later I got word -- my mother called
23 me. My oldest brother had died on October the 26th, 2017.
24 I had to plan that service. I had to travel to Indiana for
25 that funeral. I did not have the opportunity to tell my son

1 that his uncle had died.

2 When he came and he finally did make it to
3 Minnesota where he was arraigned, I did make the request
4 that he be allowed to travel back to North Carolina while
5 this process was taking place. I was advised that it would
6 not be likely. I said, I understand. I said, I'm not
7 there -- if I was there, I would ask.

8 I said, So since I'm not there, if you would ask
9 on my behalf that he be permitted, I said, I give you my
10 word he will be at every court proceeding, he will follow
11 every rule, every regulation. Whatever is required, it will
12 be done.

13 I am -- and I haven't told him that I'm proud that
14 he has followed the pretrial release guidelines. That he
15 has gone through the drug treatment program. That he has
16 completed that. He showed me his certificate that he
17 completed and that he does follow the rules for. For
18 someone with his type of personality, because he's so active
19 and he used to stay gone all the time, so for someone to be
20 in the house except for the sole purpose of going to drug
21 counseling and/or working, this has been a very trying
22 experience for him.

23 As I explained to Mr. Cotter, the one thing I
24 wanted to make clear, only because I can, when he did return
25 home after being in custody for 30 days, there was a lot of

1 discombobulation as far as his mindset, his spirit, his
2 ability to focus, his ability to get things on track, and I
3 had to talk with him constantly. And I said, We have to try
4 to regroup here.

5 And so I said that to say while I do understand
6 the need for punishment, punishment to one person is not
7 always punishment to another. For people who prepare to go
8 to penitentiary, they accept that as just another phase of
9 their life. But for a person who was always told that
10 you're going to university and not penitentiary, this is not
11 just another phase of life that we anticipated going
12 through.

13 So with that being stated, I implore the Court,
14 and I'm asking that whenever the sentence is given, imposed,
15 I am actually requesting that since he has begun the
16 rehabilitation process and paying his debt to society, that
17 he continue in that same vein as far as being on the ankle
18 monitoring, home confinement; as well as, as Mr. Cotter
19 stated, if prison is imposed, that he be allowed to be in a
20 place in North Carolina.

21 My husband does prison ministry. We go to the
22 federal prison up there. I haven't been recently. My
23 husband has gone several times. We had a young man, a
24 family from Chicago whose son was there, so my husband would
25 go and minister to him. And as I told my son on this

1 morning, I can't imagine getting on a plane to come and
2 visit you in the penitentiary, so that's why that request
3 was being made.

4 And also the request that -- and I heard Your
5 Honor state it at the last change of plea hearing -- that at
6 this hearing we would discuss the possibility of surrender
7 if prison is implicated, that that would be one of the
8 things that would be under advisement as well. So that's
9 the other thing, making my plea to this Court.

10 I do thank you for your time and I thank you again
11 for what you've already done. I appreciate it. And again,
12 I thank this prosecution also for what you have already
13 done. Thank you.

14 THE COURT: Thank you.

15 Mr. Calhoun-Lopez.

16 MR. CALHOUN-LOPEZ: Your Honor, we are persisting
17 in asking for a guideline sentence, the defense's and
18 Mr. Garmon's and the Defendant's mother's comments
19 notwithstanding. The reason is we can't know where
20 Mr. Garmon would have ended up or what would have happened
21 if he hadn't been arrested on April 7th of 2016.

22 We do know that he had committed -- he was just
23 after his fifth bank robbery, and we know that they were
24 becoming more brazen as these robberies went on. The time
25 between the robberies was getting shorter and he continued

1 doing it even after he was recognized by a teller and had to
2 abandon one of his robberies. He was stopped on April 7
3 approximately one week after his fifth robbery, and he was
4 only stopped by a sharp-eyed police officer and a diligent
5 FBI agent.

6 I think one thing that is clear, Your Honor, is
7 that it was very fortunate that he was stopped when he was.
8 It was fortunate for everybody. It was fortunate for the
9 banks, of course, but it was also fortunate for Mr. Garmon
10 because it put an end to his activities. It kept him from
11 getting hurt and it kept him from hurting anybody else.

12 Now, there is no evidence, to be clear, of any
13 kind of violence on Mr. Garmon's part. But the point of
14 that -- the fact of the matter is, and the reason why these
15 are such dangerous crimes, is that people do often get hurt
16 in bank robberies. It is a, per se, dangerous activity,
17 even more so than a regular felony. It puts everyone's
18 lives at risk. It puts Mr. Garmon's life at risk. It puts
19 security guards at risk; the tellers, and innocent
20 bystanders who are all too often hurt in either the robbery
21 itself or in the flight from apprehension.

22 Mr. Garmon is a young man. He has time to get his
23 life back on track and I expect that he will do so. But
24 before he does so, he must pay a penalty for what he has
25 done in this case.

1 Your Honor, it's very good to see Mr. Garmon's
2 support. It's a very inspiring thing that's always very
3 good. He is clearly an intelligent man, a resourceful man,
4 and he comes from a very good family. His mother's comments
5 were very heartfelt and very gracious and very moving; but
6 that's a fact that cuts both ways, Your Honor, because to
7 whom much is given, much is expected.

8 This is not a defendant who had nothing and who
9 lived a life of desperation that caused him to do this sort
10 of thing. He had a support network that he could have
11 relied upon and clearly should have relied upon.

12 Your Honor, it's not clear at this point that
13 Mr. Garmon understands yet the significance and the
14 seriousness of his conduct. He is asking for an
15 extraordinarily high downward variance and he has not
16 pointed to any factors that would justify such an
17 extraordinary remedy from the Court.

18 When you look at the factors that show an
19 extraordinary potential for rehabilitation, it seems to me
20 that they include an early acceptance, if not an immediate
21 acceptance of responsibility, and a recognition of the harm
22 that he has caused and genuine contrition.

23 And it's not clear that Mr. Garmon has shown those
24 things at this point. He has referred to these events as
25 being trying for himself, and I'm sure that they are, but

1 they've also been difficult for the witnesses and the
2 tellers who were frightened during these robberies, and he
3 has not at this point recognized that. Your Honor, at
4 these -- and they can -- I mean, the tellers were not
5 traumatized in this case, but tellers certainly have been in
6 past bankruptcies and it can in fact change their lives at
7 some point.

8 And so, Your Honor, to provide just punishment, to
9 reflect the seriousness of this conduct, and to deter
10 Mr. Garmon and to impress upon him the extremely serious
11 nature of what he has done here, a lengthy sentence is
12 necessary; and we do submit that a guideline sentence is
13 sufficient and not greater than necessary to meet the
14 objectives of federal law.

15 THE COURT: Thank you, Mr. Calhoun-Lopez.

16 All right. Is there anybody else who wishes to be
17 heard today?

18 All right. We will proceed with sentencing.

19 Mr. Garmon, you have been charged with and you
20 have pled guilty to three counts of bank robbery and it is
21 now time for your sentencing.

22 It is therefore adjudged that you will be
23 committed to the custody of the Bureau of Prisons for a
24 period of 40 months on each of Counts 1 through 3 to be
25 served concurrently at the same time, so the total will be

1 40 months.

2 I will recommend to the Bureau of Prisons that you
3 be designated to a facility in North Carolina. My
4 understanding is that the Butner facility is close to your
5 family and I will specifically make that request. All I can
6 do is make a recommendation. The Bureau of Prisons has the
7 right to make its own decision, but I will certainly make
8 the recommendation.

9 THE DEFENDANT: Thank you, Your Honor.

10 THE COURT: I will also recommend that you be --
11 that the RDAP program be made available to you; and I would
12 encourage you, despite your success of the last few years, I
13 would encourage you to take advantage of it; and if you
14 successfully complete it, that could take some time off your
15 sentence as well.

16 THE DEFENDANT: Thank you, Your Honor.

17 THE COURT: No fine is ordered. Mandatory
18 restitution in the amount of \$3,552 is due to the victim
19 bank in this case.

20 Payments of not less than \$50 a month are to be
21 paid over the period of your supervised release, which we'll
22 discuss in a moment, which will commence 30 days after your
23 release from prison.

24 You'll make those payments to the Clerk of the
25 United States District Court who, in turn, will disburse

1 them to the victim bank.

2 Over your period of incarceration, you will be
3 employed in prison and hopefully you will take advantage of
4 that opportunity to get some vocational training. And
5 you'll also make payments of either quarterly installments
6 of a minimum of \$25 if working non-UNICOR, or a minimum of
7 50 percent of your monthly earnings if you're working
8 UNICOR.

9 And it is recommended that you participate in the
10 inmate financial responsibility program while you're
11 incarcerated.

12 Now, your obligation to pay the full amount of
13 restitution continues even after the term of your supervised
14 release has ended until your full restitution payment is
15 made.

16 On release from imprisonment, you will be placed
17 on supervised release for a period of two years. That term
18 consists of two years for each of Counts 1 through 3, again
19 to run concurrently.

20 While you're on supervised release, there are a
21 number of rules, conditions, and here they are:

22 You shall not commit any crimes, federal, state,
23 or local.

24 You shall not illegally possess a controlled
25 substance, and you shall refrain from any unlawful use of a

1 controlled substance; and you will be submitted to random
2 drug testing.

3 You must cooperate in the collection of DNA.

4 Within 72 hours after your release from
5 imprisonment, you must appear at the closest Probation and
6 Pretrial Services Office to the prison. The prison will
7 tell you where that's located. You have 72 hours in which
8 to appear.

9 You shall not own, possess, or have access to a
10 firearm, ammunition, destructive device, or any dangerous
11 weapon.

12 You must abstain from the use of alcohol and other
13 intoxicants, and not frequent establishments whose primary
14 business is the sale of alcohol.

15 As I said, you must submit to substance abuse
16 testing as approved and directed by your probation officer.

17 You shall provide the probation officer access to
18 any requested financial information, including credit
19 reports, credit card bills, bank statements, and telephone
20 bills; and you shall be prohibited from incurring new credit
21 charges or opening additional lines of credit without
22 approval of your probation officer.

23 What will actually happen with substance abuse is
24 you will -- the results of the discharge program from your
25 outpatient treatment that you have been through and RDAP, if

1 you go through that, will be provided to your probation
2 officer and there will be a judgment about whether future
3 substance abuse treatment at some sort of level, even if
4 it's NA, is advised; and then you will be obliged to
5 cooperate with that treatment protocol.

6 A \$300 special assessment for the Crime Victims
7 Fund is required by statute to be paid immediately.

8 There is no question that the most difficult thing
9 I do as a federal judge is sentence people. It's a
10 responsibility that weighs heavily on me all the time. It's
11 not something I can leave at the office. It's something
12 that I live with. It's part of my responsibilities here,
13 but it is a very significant burden and responsibility. So
14 it's important, I think, for you to understand what the law
15 requires of me and then to understand how I have applied
16 that in your situation.

17 The law tells me to start with the guideline range
18 in this case. That has to be the starting point of my
19 analysis. I don't have to assume that that range is
20 reasonable, but it must be where I start my analysis from.
21 And then I consider aggravating circumstances, which I'll
22 talk about in a minute, related to the offense or your
23 conduct; and I balance it against mitigating circumstances,
24 positive circumstances, because what the law wants me to do
25 is ensure that you're not in prison one day greater than

1 necessary to accomplish the goals of sentencing, and the
2 goals of sentencing focus primarily on the need to ensure
3 that you won't reoffend.

4 The goals of sentencing include the need for a
5 just or fair punishment in this case; to promote respect for
6 the law; to provide just punishment; to reflect the
7 seriousness of your offense; to deter you from committing
8 crimes in the future; importantly, to deter others from
9 committing crimes, specifically, bank robberies; to protect
10 the public; to give you the kind of needed care and
11 treatment and training you need to ensure that restitution
12 is paid to the victim of your offense. And importantly, to
13 make sure that there isn't an unfair disparity between your
14 sentence and the sentence of others who are similarly
15 situated who have committed similar numbers of bank
16 robberies, for instance, because there needs to be a sense
17 in the community that there's uniformity about the
18 sentencing, that there's fairness of the sentencing.

19 So those are the -- that's what the law requires
20 of me and that's what I take so seriously when I try to
21 craft a fair sentence.

22 And so you can see that weighing and balancing
23 those factors, I have concluded that it is appropriate in
24 your case to go below the sentencing guideline range, to
25 vary downward from the lower end of that guideline range

1 because in my view, as I will talk about in a moment, the
2 mitigating circumstances here justify that over the
3 aggravating circumstances.

4 I don't believe that a downward departure for
5 criminal history score is warranted here because although I
6 agree that it's a factor that I've considered in my
7 variance, I don't believe that a Category II criminal
8 history score substantially overrepresents your criminal
9 history, which is what the law requires.

10 So if we turn for a moment to the aggravating
11 factors, they are serious. In a three-month stretch of time
12 you became a serial bank robber. I mean, it's almost hard
13 to imagine, robbing, it appears, five banks in the Metro
14 area. And, as the Government correctly states, bank robbery
15 is an inherently dangerous felony for obvious reasons. It
16 terrorizing tellers, it puts innocent people at risk. It
17 puts you at risk.

18 Also, the other aggravating circumstance here is
19 it took you some time to take full responsibility for these
20 actions, and that's a concern when we think about whether
21 someone is really completely rehabilitating.

22 But there are very significant mitigating factors
23 to consider here as well. It looks like, by all accounts,
24 these bank robberies were driven by an addiction to crack
25 cocaine and alcohol. Since 2016 you have not committed any

1 criminal offenses. Your entire criminal history before this
2 spree of bank robberies consisted of minor marijuana
3 possession charges. You've never before been incarcerated
4 until this case.

5 Since the bank robberies, as you point out, even
6 before you were indicted, you made a conscious decision to
7 turn your life around and that's something I give great
8 credit to and you should take great credit for that.

9 You entered outpatient substance abuse treatment.
10 You returned to your incredibly supportive and loving family
11 and that environment. You got away from the toxic
12 influences that are here for you in Minnesota. You
13 maintained employment. You even began college classes.

14 That is a post-offense rehabilitation story that's
15 rare and it gives me promise and hope that you won't
16 reoffend in the future.

17 You've remained compliant with the conditions of
18 your pretrial release.

19 And perhaps the most important factor to me in
20 determining whether you will reoffend, since I sit here day
21 after day and see offenders, is the presence of a strong,
22 supportive family. That is -- that is the most important
23 factor in anybody's life, and I think that is what gives me
24 such confidence that you can go forward in a productive way.
25 You can give back to your community.

1 It was very moving for me to hear from your
2 mother. She's a remarkable woman. I probably don't need to
3 tell you that.

4 THE DEFENDANT: Yes.

5 THE COURT: I really think she probably should go
6 to law school. That was one of the most persuasive set of
7 remarks I've ever heard. I would disagree on one point.
8 She talked about raising you not to go, as she said, to the
9 penitentiary but to go to the university. You're probably
10 not going to go to a penitentiary. You're probably going to
11 go to a lesser secure prison; but setting that aside, you
12 can do both with your life. You can finish this prison term
13 and you can live up to the expectations she has for you and
14 you have for yourself, and I know you will do that.

15 I know when you get out of prison, you're going to
16 go to university; and when you graduate from university,
17 just like your mother watched her Goddaughter walk across
18 that stage, you're going to write me a letter and tell me
19 you graduated.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: But needless to say, your success
22 going forward depends, as you know, on the choices you make
23 in life. And we all have times in our life where we have to
24 deal with very painful realities. And one of those painful
25 realities in most people's lives is that something has gone

1 wrong, and often times what's gone wrong is a parent. A
2 parent has not loved you the way they should have. They
3 have, in fact, never parented you, and that causes children
4 to suffer enormous pain.

5 But I think what you've learned is that it is okay
6 to feel the pain of that reality, but it is also okay and
7 possible to move past that. You can set that aside. You
8 can grieve that loss. You can close that wound and you can
9 make something of your life, and I'm sure that's what you're
10 going to do now.

11 You know, with a criminal history of a conviction
12 for three bank robberies, I don't have to tell you, if you
13 resort to drugs and commit crime again, the future is going
14 to be grim. So I hope that that fact also deters you in the
15 future. But most importantly, I hope you find the strength
16 to set aside the broken part of you and find strength in
17 that broken part now and move ahead, and I wish you and your
18 family the very best.

19 THE DEFENDANT: Thank you, Your Honor.

20 THE COURT: Now, sir, you have the right to appeal
21 your conviction or your sentence or both, and if you wish to
22 do so, you must do so within 14 days after entry of judgment
23 in this case, which will likely be sometime next week. And
24 if you can't afford to pay the costs of that appeal, the
25 Court will excuse those costs and pass the appeal on to the

1 court that sits above me and they will review your case.

2 At this time, Mr. Calhoun-Lopez, does the
3 Government wish to move to dismiss the remaining counts of
4 the Indictment?

5 MR. CALHOUN-LOPEZ: We do, Your Honor. We move to
6 dismiss Counts 4 and 5 of the Indictment.

7 THE COURT: And those counts are dismissed.

8 Mr. Cotter, at this time do you wish to have any
9 of these submissions sealed and, if so, for how long?

10 MR. COTTER: Your Honor, I don't believe we need
11 to seal any of the submissions. Thank you.

12 THE COURT: All right. I understand that
13 Mr. Garmon is requesting voluntary surrender. Does the
14 Government have objection?

15 MR. CALHOUN-LOPEZ: In light of Mr. Garmon's
16 comments, Your Honor, we do not.

17 THE COURT: All right. Very good. I will permit
18 voluntary surrender in this case. And let me explain to
19 you, Mr. Garmon, how that's going to work. I'm going to
20 give you 30 days; that is until Monday, December 10th. You
21 may or may not be designated by then. Mr. Cotter will
22 notify you of your designation. So you're going to have two
23 options on December 10th. If you have been designated to a
24 particular prison by then, you may appear at that prison
25 instead of appearing here. You would have to appear at that

1 prison by 2 o'clock on Monday, December 10th.

2 But if you've not been designated, you must appear
3 here in Minneapolis, this is St. Paul, but you'd have to
4 appear at the Minneapolis courthouse on Monday, December
5 10th by 10:00 a.m.

6 THE DEFENDANT: Thank you, Your Honor.

7 THE COURT: Anything else from the Government?

8 MR. CALHOUN-LOPEZ: No, Your Honor.

9 THE COURT: Anything else from the defense?

10 MR. COTTER: No, Your Honor. Thank you.

11 THE COURT: Very good. Court is adjourned.

12 (Court adjourned at 10:32 a.m.)

13 * * *

14
15 I, Carla R. Bebault, certify that the foregoing is
16 a correct transcript from the record of proceedings in the
17 above-entitled matter.

18 Certified by: s/Carla R. Bebault
19 Carla Bebault, RMR, CRR, FCRR
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